

January 23, 2004

Susan Jablonski
Low-Level Radioactive Waste Specialist
Texas Commission on Environmental Quality
Resource Conservation
MC122
P.O. Box 13087
Austin, TX 78711-3087

Dear Ms. Jablonski:

We have reviewed your responses to our October 2, 2003 letter on the proposed revisions and additions to the Texas Low-Level Radioactive Waste Disposal Rules in Title 30, Texas Administrative Code (TAC). Your response was received by this office electronically on November 18, 2003, with supplemental material arriving in hard copy on January 15, and electronically on January 20, 2004.

We thank you for your response to our letter and further explanation of the changes to your rule. As a result of our review, we have concluded that the proposed changes to your rules resulting from our comments, do not raise a current compatibility issue. We do note that, while the Texas regulations in light of 30 TAC 336.734 meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200, we remain concerned, for the reasons provided in our October 2, 2003 letter, that the implementation of this rule requires an exemption from 30 TAC 336.74 to allow the licensing of a facility to dispose of Federal waste. However, we do agree that the compatibility issue is not raised until an exemption is sought. For that reason, we conclude that we do not have a compatibility issue with the Texas regulations.

Accordingly, we request that should the State of Texas consider an application for a license application involving the exemption to the requirements contained in 30 TAC 336.734, that you inform the NRC so that we may conduct a compatibility review of the circumstances of the exemption at that time.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or John Zabko of my staff at (301)415-2308 or JGZ@NRC.GOV.

Sincerely,

IRA by P.H. Lohaus

Paul H. Lohaus, Director
Office of State and Tribal Programs

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Paul H. Lohaus, Director
Office of State and Tribal Programs

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